

REMARKS

The present paper is in response to the Examiner's Office Action mailed August 4, 2006. Claims 1, 3-5, 10, 12, 15-24, 26, 27, and 31-37 were rejected under 35 U.S.C. 102(e) as being purportedly anticipated by United States Patent No. 6,507,923 to Wall et al. (hereinafter referred to as "Wall"). In addition, Claims 2, 6-9, 11, 13, 14, 25, and 28-30 were rejected under 35 U.S.C. 103(a) as being obvious in light of Wall and various other references cited in the Office Action. By this paper, Claims 1, 5-6, 12, 19-34, and 37 are amended, no claims are added or cancelled, such that Claims 1-7 and 9-37 remain pending for examination. Reconsideration and allowance for the above-identified application are now respectfully requested in light of these remarks and the accompanying amendments.

Reconsideration of the application is respectfully requested in view of the following remarks. For the convenience and reference of the Examiner, the remarks of Applicant are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Office Action to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Office Action; as to whether it is proper to combine any cited references; or as to any other assertions, allegations or characterizations made by the Office Action at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references, as well as whether it is proper to combine the cited references, at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant,

of additional or alternative distinctions between the claims of the present application and the references cited by the Office Action, and/or the merits of additional or alternative arguments.

II. Rejection Under 35 U.S.C. §102(a/b/e)

In section 2 of the Office Action, Claims 1, 3-5, 10, 12, 15-24, 26, 27, and 31-37 were rejected under 35 U.S.C. § 102(e) as being unpatentable over United States Patent No. 6,507,923 to Wall. Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *MPEP* § 2131. Further, Applicant also notes that "[i]n determining that quantum of prior art disclosure which is necessary to declare an applicant's invention 'not novel' or 'anticipated' within section 102, the stated test is whether a reference contains an 'enabling disclosure.'" *MPEP* § 2121.01. In other words, a cited reference must be enabled with respect to each claim limitation.

Claim 1 as amended recites in part a diagnostic module comprising: one or more programmable logic modules, each programmable logic module configured to process first bit files that cause the programmable logic module and at least one communicatively coupled port to interoperate to implement a first one of a plurality of different network diagnostic functions, each programmable logic module including a clock configured to coordinate the transfer of data between the programmable logic module and the at least one communicatively coupled port and wherein each programmable logic module is further configured to process second bit files that cause the programmable logic module and at least one communicatively coupled port to interoperate to implement a second one of the plurality of different network diagnostic functions, **wherein the second one of the plurality of network diagnostic functions is different from the first one of the plurality of different network diagnostic functions.** (emphasis added).

The Office Action, however, has failed to show that Wall teaches or suggests a diagnostic module as disclosed in amended Claim 1. For example, the Office Action cites column 12, lines 36-45 and column 13, lines 16-38 to show that the programmable logic modules of Wall receive bit files that cause the trac processors 150, 152 to perform different diagnostic functions. These

cited portions teach that the alleged different functionalities allow the trac engine 92 to monitor for different status conditions being received by the analyzer channel. One trac engine may receive a block of instructions to monitor a first status condition and later may receive a larger block of instructions that allow it to monitor for a second more complex status condition. High level AND logical conditions may be created using the two trac engine processors. Having both trac processors 150/152 monitor for status conditions allows for triggering across the multiple network analyzer channels of Wall.

Contrary to the assertion made on page 3 of the Office Action, Wall does not teach that each trac processor 150/152 implements a different respective function. As mentioned above, the functionality performed by the trac processors 150/152 **is the same** as both of the trac processors 150/152 monitor for status conditions (emphasis added). In other words, both trac processors 150/152 perform a status monitoring functionality to allow for triggering of the network analyzer of Wall. The fact that both trac processors 150/152 may monitor different status conditions or that they may be configured to monitor status conditions of varying complexity does not mean that they implement different diagnostic functions as recited in amended Claim 1. Having both trac processors 150/152 monitoring different status conditions or status conditions of varying complexity is still implementing the same status monitoring functionality.

Further, Wall only teaches or discloses a network analyzer. Wall does not teach or suggest any other type of network diagnostic device such as a jammer, a generator, and a bit error rate tester.

This is in sharp contrast to the diagnostic module as taught in the pending patent application. As disclosed in the pending patent application, the programmable logic modules of the present invention receive first bit files that configure the programmable logic module and a communicatively coupled port to implement a first one of a plurality of network diagnostic functions. Such network diagnostic functions include at least a network analyzer, a jammer, a generator, and a bit error rate tester. The programmable logic module may then receive second bit files that configure the programmable logic module and a communicatively coupled port to implement a second one of the plurality of network diagnostic functions that is different from the first network diagnostic function. For example, the first bit files may cause the programmable

logic module and the communicatively coupled port to implement a network analyzer functionality and the second bit files may cause the programmable logic module and the communicatively coupled port to implement a jammer functionality, which is different from a network analyzer functionality. As mentioned above, Wall only mentions network analyzers. Thus, Wall does not teach or suggest implementing a second network diagnostic functionality that is different from the first network diagnostic functionality as recited in Claim 1 and as taught by the pending application.

Inasmuch as the Office Action has not established that the identical invention is shown in Wall in as complete detail as is contained in amended Claim 1, and because the Office Action has not shown that Wall discloses the elements of Claim 1 arranged as required by that claim, Applicant respectfully submits that the Office Action has not established that Wall anticipates Claim 1. For at least the foregoing reasons, Applicant respectfully submits that the rejection of Claim 1 should be withdrawn.

Independent Claims 12, 20, 34, and 37 included similar limitations as independent Claim 1. Accordingly, for at least the reasons discussed above in relation to Claim 1, the rejections of independent Claims 12, 20, 34, and 37 should also be withdrawn. Claims 3-5, 10, 15-19, 21-24, 26, 27, 31-33, and 35-36 variously depend from Claims 1, 12, and 20 and are thus patentable for at least the reasons Claims 1, 12 and 20 are patentable. Accordingly, the rejections of these claims should also be withdrawn.

III. Rejection Under 35 U.S.C. § 103

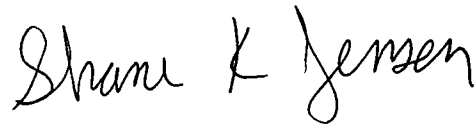
The Office Action rejected Claims 2, 6-7, 9, 11, 13, 14, 25, and 28-30 under 35 U.S.C. 103(a) as being obvious in light of Wall and various other references cited in the Office Action. Applicant respectfully notes that Claims 2, 6-7, 9, 11, 13, 14, 25, and 28-30 all variously depend from Claims 1, 12, and 20 and are thus patentable for at least the reasons discussed above that Claims 1, 12, and 20 are patentable. Accordingly, the rejections to these claims should be withdrawn.

CONCLUSION

In view of the foregoing, Applicant believes the claims as amended are in allowable form and that every issue raised by the Office Action has been addressed. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorneys.

Dated this 29th day of November, 2006.

Respectfully submitted,

A handwritten signature in cursive script that reads "Shane K. Jensen".

ERIC L. MASCHOFF
Registration No. 36,596
SHANE K. JENSEN
Registration No. 55,301
Attorneys for Applicant
Customer No. 022913
Telephone: (801) 533-9800